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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,141	08/20/2004	Koji Tsukuma	Q83134	1860
65565 7590 01/10/2007 SUGHRUE-265550 2100 PENNSYLVANIA AVE. NW WASHINGTON, DC 20037-3213			EXAMINER VANOY, TIMOTHY C	
			ART UNIT 1754	PAPER NUMBER
			MAIL DATE 01/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

C

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/505,141	Applicant(s) TSUKUMA ET AL.	
	Examiner Timothy C. Vanoy	Art Unit 1754	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☒ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 1-5 and 8-12.
 Claim(s) objected to: _____.
 Claim(s) rejected: 6.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☒ Other: See Continuation Sheet.

Timothy C. Vanoy
 Timothy C Vanoy
 Primary Examiner
 Art Unit: 1754

Continuation of 11. does NOT place the application in condition for allowance because: the proposed amendment to claim 6 is not consistent with the applicants' specification. The specification on pg. 12 sets forth that the particle sizes of 1 micrometers or less was obtained by adding a powder of manganese oxide and a powder of lithium carbonate to water and mixing the ingredients with pulverization. That is, from pg. 12 in the specification, the slurry before pulverization must have contained particles having a size larger than 1 micrometer. In total contrast, applicants' proposed claim 6 sets forth that a slurry was initially provided having particle sizes that are less than 1 micrometer, and this slurry was subjected to pulverization.

Continuation of 13. Other: In view of the disclosure set forth on para. no. 0008 in the English translation of JP-321 where it is taught "without a pulverization", the applicants may want to consider amending their claim 6 to read as follows:

Claim 6. A process for producing the granular secondary particles of a lithium-manganese composite oxide of claim 1, characterized by the process comprising pulverizing a slurry comprising manganese oxide and lithium carbonate to produce a slurry comprising manganese oxide particles having an average particle diameter of 1 micrometer or smaller and lithium carbonate particles having an average particle diameter of 1 micrometer or smaller or pulverizing a slurry comprising manganese oxide, lithium carbonate and a compound containing one or more elements selected from Al, Co, Ni, Cr, Fe, and Mg to produce a slurry comprising manganese oxide particles having an average particle diameter of 1 micrometer or smaller, lithium carbonate particles having an average particle diameter of 1 micrometer or smaller and a compound containing one or more elements selected from Al, Co, Ni, Cr, Fe, and Mg to thereby granulate the slurry and then calcining the granules at a temperature of from 700 to 900 °C.

This is a proposed Examiner's Amendment. Note that the second option of claim 6 must also have this pulverization step to clear the art.